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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,136	01/10/2006	Brian Hartley	SWIN 3380	9434
7812 7590 03/19/2008 SMITH-HILL AND BEDELL, P.C. 16100 NW CORNELL ROAD, SUITE 220 BEAVERTON, OR 97006				
EXAMINER				
WALTERS, JOHN DANIEL				
ART UNIT		PAPER NUMBER		
3618				
MAIL DATE		DELIVERY MODE		
03/19/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/561,136

Applicant(s)

HARTLEY, BRIAN

Examiner

JOHN D. WALTERS

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 28-51 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CS-100)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date 20070124

DETAILED ACTION

Claims 28 – 51 have been examined. Claims 1 - 27 have been canceled by Applicant.

Drawings

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. The figures are replete with components that are claimed but not shown. Therefore, the electric motor, the status sensor, a mechanical advantage altering means for the drive system, a ratchet system and a gearbox must be shown or the feature(s) canceled from the claim(s). Applicant is also requested to review the figures in an effort to ensure that ALL claimed components are shown within the figures. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 32, 40, 45 and 48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 32 and 40 make use of the phrase "and/or" which renders the limitation recited ambiguous and thus indefinite.

Claim 45 contains a parenthetical addition to the limitation of a ratchet system which renders the limitation indefinite.

Claim 45 also states that the invention "can consist" of two sprockets. This would imply that it is also acceptable that it cannot consist of said limitation as the language does not require said limitation to exist.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 28 – 36, 41 – 48, 50 and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Yuki et al. (6,065,555). Yuki discloses a power assisted wheelbarrow comprising:

- an electric motor (Fig. 1, item 30);
- a mechanical coupling (Fig. 4);
- a wheel (Fig. 1, item 23);
- said electric motor selectively driving said wheel (column 2, lines 1 – 31);
- said electric motor being controlled by a switch, i.e. button (Fig. 1, item 73);

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- said switch being a "hold to sustain" type (column 2, lines 1 – 31);
- said electric motor being controlled by a status sensor, said sensor sensing a travel angle (column 2, lines 1 – 31);
- said electric motor being detachable (Fig. 3, item 53);
- a chain (Fig. 4, item 50)
- a sprocket cog and a drive cog sized to enable the wheel to be driven (Fig. 4, items 48 and 49);
- said wheelbarrow being able to receive motors of differing power (inherent);
- a gear box (Fig. 2, item 51);
- a ratchet system (Fig. 4, item 41).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37 – 40 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yuki et al. (6,065,555) as applied to claims 28 – 36, 41 – 48, 50 and 51 above, and further in view of Husted et al. (2001/0013437). Yuki does not disclose the particulars of battery construction. Husted, however, discloses a removable battery comprising:

- a detachable electric battery (Fig. 2);
- said battery being held within a waterproof housing (Fig. 2, item 14);
- said battery including a plug (Fig. 2, item 16).

In regards to claims 39 and 49, it is old and well known to make use of rechargeable batteries in a wide range of electric vehicles including automobiles, go-carts and scooters. As such it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to provide rechargeable batteries for the wheelbarrow of Yuki in order to eliminate the need for constant disposal of used batteries and the costs associated therewith.

In regards to claim 37, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to provide cogs of appropriate diameters for the intended use of a vehicle. The knowledge of the relationship between gear ratios and gear diameters is standard knowledge in the mechanical arts and would be well within the ability of one of ordinary skill in the art.

it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to combine the removable battery of Husted with the wheelbarrow of Yuki in order to facilitate transport of said wheelbarrow when not in use (Husted paragraph 7).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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- Schaefer, III (D461,613) discloses a wheelbarrow with selective auxiliary electric power assist;
- Lucchi (2,253,288) discloses a wheelbarrow;
- Armstrong (5,305,843) discloses a power driven wheelbarrow;
- Hoover (5,465,801) discloses a motorized wheelbarrow;
- Hillbohm (5,489,000) discloses a motorized wheelbarrow;
- Fox (5,878,827) discloses a motorized wheelbarrow;
- Simmons et al. (6,745,859) disclose a powered wheel assembly;
- Chernoff et al. (6,923,282) disclose a chassis subassembly module and method for using same;
- Benton et al. (7,234,710) disclose a spring powered vehicle;
- Brabetz et al. (2002/0084119) disclose a motorized wheelbarrow;
- Strong (2002/0175007) discloses a modular mobility vehicle;
- Hart (2003/0178801) discloses a motorized wheelbarrow with handle elevating feature.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN D. WALTERS whose telephone number is (571)272-8269. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Ellis/
Supervisory Patent Examiner, Art Unit 3618

John D. Walters
Examiner
Art Unit 3618

/J. D. W./
Examiner, Art Unit 3618